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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,461	12/08/2003	James S. Brissenden	6978-000277	2902

27572 7590 06/23/2005

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303

EXAMINER

BONCK, RODNEY H

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/730,461	Applicant(s) BRISSENDEN ET AL.	
	Examiner Rodney H. Bonck	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-23, 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6-8, 10-12 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

The following action is in response to the amendment received May 3, 2005.

After reconsideration of the claims in view of the prior art, it appears that the examiner erred in indicating allowability of certain of the claims. Accordingly, the indication of allowability of claims 1, 2, 6-8, and 10-12 is vacated.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 6-8, 10-12 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ring et al.('739) in view of Dunkelow('192). Regarding method claims 26-28, the Ring et al. device is a pressure actuated brake that in use would inherently involve performing the steps of selectively supplying a pressurized fluid to a low pressure side of pressure intensifier 30, selectively supplying magnified pressure from the high pressure side of the pressure intensifier to a piston of cylinder means 40, and engaging a brake with the piston to interconnect two relatively rotating members. The Ring et al. device would lack the step of "engaging the clutch" since it is a brake actuator. Clutches and brakes are so closely related that a person having ordinary skill in the art would have found it obvious to apply the Ring et al. arrangement to a clutch actuator, such as that of Dunkelow, a pressure actuated clutch. It is conventional to provide pressure regulation in fluid pressure systems. Thus recitation of the step of maintaining a desired pressure range would not patentably distinguish over Ring et al. Note that reservoir tank 20 of Ring et al. would constitute a pressure accumulator. Regarding the claims to a power transmission device, it would have been obvious to apply the Ring et al. arrangement to a clutch, such as in Dunkelow. In a brake one of the input/output members is fixed against rotation, but the brake actuator in Ring et al. would be applicable to engaging the rotary input and output elements of Dunkelow. Note that Dunkelow provides the claimed interleaved clutch pack with first and second sets of clutch plates. Though not shown, Ring et al. inherently includes a pressure source, and it is obvious to one skilled in fluid handling to provide a valve to selectively

supply or cut off pressure. Dunkelow further provides lubrication, which would logically be provided by a pump driven by any known means.

***Allowable Subject Matter***

Claims 13-23, 29, and 30 are allowed.

Claims 3-5 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed May 3, 2005 have been fully considered but they are not persuasive. Applicant argues that valves 74 and 76 are not in communication with pressure control unit 18. The examiner disagrees. They communicate with control unit 18 via accumulator 12. Further applicant argues that the step of applying a pressure signal from a pressure source is not disclosed, taught or suggested. Providing a source of pressure in a fluid system is conventional; and while Ring et al. may not show the source, the artisan would recognize that one is necessary and would inherently be provided. Accordingly, the above rejection is believed proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571)

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272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney H. Bonck  
Primary Examiner  
Art Unit 3681

rhb  
June 21, 2005